constitutes, in substance and effect, * * * the confiscation of property." *Magnano Co.* v. *Hamilton,* 292 U. S. 40, 44; see also *Foley Securities Corp.* v. *Commissioner,* 106 F. 2d 731, 735–737 (C. A. 8).

It is likewise eminently clear that there does not here exist any violation of the uniformity requirement of the Constitution. "[T]he uniformity exacted is geographical, not intrinsic." *Steward Machine Co.* v. *Davis, supra,* p. 583.

3. Also totally lacking in merit is the final contention (Pet. 16–21) to the effect that the withholding provisions of the law deprive domestic employers of their liberty and property in violation of the Fifth Amendment.

As the court below correctly pointed out (R. 47), withholding provisions in our system of taxation can no longer be successfully challenged. The contention here seems to be that, while withholding may lawfully be required in connection with employment in the operation of a business, it cannot be required as to employment in the operation of a household. This rests upon the same unwarranted premise, heretofore referred to, that employment of domestic servants may not be subjected to a tax.

It is clear that employers of domestic servants are not, under this law, deprived of their liberty or property in any manner or to any extent which could possibly be regarded as doing violence to the Fifth Amendment to the Constitution.

CONCLUSION

The decision below is correct, and is in accord with applicable decisions of this Court. There is no conflict of decisions, and no question calling for review by this Court is presented. The petition should, therefore, be denied.

Respectfully submitted.

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DECEMBER 1953.

APPENDIX

Constitution of the United States:

ARTICLE I

* * * * *

SECTION 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

* * * * *

SECTION 9. * * *

* * * * *

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

* * * * *

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

* * * * *

Internal Revenue Code:

SUBTITLE B—MISCELLANEOUS TAXES

CHAPTER 9—EMPLOYMENT TAXES

Subchapter A[1]—

EMPLOYMENT BY OTHERS THAN CARRIERS

Part I—Tax on Employees

SEC. 1400 [As amended by Sec. 201 (a) of the Social Security Act Amendments of 1950, c. 809, 64 Stat. 477]. RATE OF TAX. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 1426 (a)) received by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

* * * * *

(2) With respect to wages received during the calendar years 1950 to 1953, both inclusive, the rate shall be 1½ per centum.

* * * * *

(26 U. S. C. 1946 ed., Supp. IV, Sec. 1400.)

SEC. 1401. DEDUCTION OF TAX FROM WAGES.

(a) *Requirement.*—The tax imposed by section 1400 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid.

(b) *Indemnification of Employer.*—Every employer required so to deduct the

[1] This subchapter was given the short title of "Federal Insurance Contributions Act" by Section 607 of the Social Security Act Amendments of 1939, c. 666, 53 Stat. 1360.

tax shall be liable for the payment of such tax, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(c) [As amended by Sec. 602 (a) of the Social Security Act Amendments of 1939, c. 666, 53 Stat. 1360] *Adjustments.*—If more or less than the correct amount of tax imposed by section 1400 is paid with respect to any payment of remuneration, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as may be prescribed by regulations made under this subchapter.

* * * * *

(26 U. S. C. 1946 ed., Sec. 1401.)

Part II—Tax on Employers

SEC. 1410 [As amended by Sec. 201 (b) of the Social Security Act Amendments of 1950, *supra*]. RATE OF TAX.

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 1426 (a)) paid by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

* * * * *

(2) With respect to wages paid during the calendar years 1950 to 1953, both inclusive, the rate shall be 1½ per centum.

* * * * *

(26 U. S. C. 1946 ed., Supp. IV, Sec. 1410.)

Part III—General Provisions

SEC. 1426. DEFINITIONS.

When used in this subchapter—

(a) [As amended by Sec. 203 (a) of the Social Security Act Amendments of 1950, *supra*] *Wages.*—The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(7) (A) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in the quarter for such service is less than $50 or the employee is not regularly employed by the employer in such quarter of payment. For the purposes of this subparagraph, an employee shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during the quarter the employee performs for the employer for some portion of the day domestic service in a private home of the employer, or (ii) the employee was regularly employed (as determined under clause (i)) by the employer in the performance of such service during the preceding calendar quarter. * * *

* * * * *

(b) [As amended by Sec. 204 (a) of the Social Security Act Amendments of 1950,

supra] *Employment.*—The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 * * *; except that, in the case of service performed after 1950, such term shall not include—

* * * * *

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;[2]

* * * * *

(d) [As amended by Sec. 205 (a) of the Social Security Act Amendments of 1950, *supra*] *Employee.*—The term "employee" means—

* * * * *

(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; * * *

* * * * *

(26 U. S. C. 1946 ed., Supp. IV, Sec. 1426.)

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[2] Before the 1950 Amendments, this subsection (as amended by Sec. 606 of the Social Security Act Amendments of 1939, *supra*) read as follows:

"(2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; * * *"

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